



USDA Foreign Agricultural Service

# GAIN Report

Global Agriculture Information Network

Template Version 2.09

Required Report - public distribution

**Date:** 6/18/2004

**GAIN Report Number:** E34023

## EU-25

### Sanitary/Phytosanitary/Food Safety

### Food and Feed Controls

## 2004

**Approved by:**

Stan Cohen

U.S. Mission to the EU

**Prepared by:**

Gerda Vandercammen

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**Report Highlights:**

The final text of Food and Feed Controls regulation has been published. This regulation establishes the legal basis for all feed and food controls, including import controls as of 2006. The full impact of this regulation to third countries will only become clear once implementing regulations have been finalized.

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Includes PSD Changes: No  
Includes Trade Matrix: No  
Unscheduled Report  
Brussels USEU [BE2]  
[E3]

## Legal Reference

Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (published in Official Journal L 191 of May 28, 2004 - [http://europa.eu.int/eur-lex/en/archive/2004/l\\_19120040528en.html](http://europa.eu.int/eur-lex/en/archive/2004/l_19120040528en.html))

## Scope

The new regulation will replace the patchy and fragmented control systems that are currently in place. It will reorganize controls on food and feed and integrate controls in all sectors, using the farm to fork principle. Controls may be carried out at any stage of production, processing and distribution. For non-EU origin goods, controls may also be carried out on goods that are introduced in the EU under customs procedures other than free circulation (such as by passengers on international ships, through parcels sent by mail) and that are introduced in free zones or warehouses.

## Entry into force

The new control regulation will enter into force on January 1, 2006.

## Basic Provisions

The new control regulation provides for

- a harmonized EU-wide approach to the design and development of Member State food and feed control systems,
- co-operation between competent authorities in Member States
- a common approach to imports of feed and food,
- audits of member state control systems against national control plans
- audits to verify compliance or equivalence of third country legislation and control plans with EU requirements
- technical assistance to developing third countries
- enforcement measures to address problems of non-compliance

## Relevant Aspects for third countries

### - Animal Welfare

Although the title of the regulation concerns controls to ensure the verification of compliance with food and feed law, animal health and **animal welfare**, the sections relevant to third countries do not include animal welfare controls except where there are explicit animal welfare provisions in EU-third country bilateral agreements. See article 46.1: "Commission experts may carry out official controls in third countries to verify ... the compliance or equivalence of third-country legislation and systems with Community feed and food law and animal health legislation."

### - Community Controls in Third Countries/Information vs. Control Plans (art. 47)

The regulation provides for Community controls in third countries to verify compliance or equivalence with Community feed and food law and with animal health legislation. These controls will be based on information that the third country provides upon request of the Commission.

More specifically, the text states that the Commission shall be responsible for requesting third countries intending to export goods to the Community to provide accurate and up-to-date information on the general organization and management of sanitary control systems.

This final text differs substantially from the original proposal that made imports of feed and food subject to the submission and maintenance of a "control plan" by the third country, thereby mirroring the control plan requirement imposed on EU Member States. The U.S. had

strongly opposed this language which it considered overly prescriptive for a non EU member. These concerns were communicated in the U.S. comments following the notification of the draft regulation to the WTO.

The guidelines, specifying how the information has to be drawn up and presented to the Commission still have to be drawn up. This information should form the basis for subsequent Commission controls.

In any case, the Commission does not expect that any information will be requested from third countries any time soon, and certainly not before 2006. Any practical work on this issue will be dealt with by the FVO in Dublin. Priority will be given to the controls plans from Member States.

#### *List of High Risk Products*

Provision is made for drawing up a list of products of non-animal origin, which are considered to pose a higher risk to human and animal health. Products from this list will have to be imported through designated border inspection points and will be subject to prior notification and strict testing measures, similar to the import regime for products of animal origin. The history of contamination reported through the rapid alert system will be used as one of the determining factors for the development of this list. Iranian pistachios have constituted the majority of rapid alerts and in its public communications, the Commission has repeatedly mentioned aflatoxins in nuts as the example for a product presenting a particular risk. In the coming months, the Commission will be working on the implementation of the list and the corresponding measures.

#### *-Procedure for Infringements*

When feed or food is found not to comply with EU law, competent authorities of the importing Member states will decide on one of the following actions: to destroy the goods, make them subject to a special treatment, re-dispatch the goods, or regularize the situation, e.g. by changing the intended use of the product. Food businesses are liable for the costs incurred by the competent authorities. As a general rule re-dispatch of consignments has to happen within 60 days, unless legal action has been undertaken. After that period the consignment will be destroyed, unless a delay can be justified. Re-dispatch is subject to certain conditions: the destination has to be agreed with the operator, the competent authority in the country of origin has to be informed. If the country of destination is not the country of origin, the competent authority of the destination country has to notify its preparedness to accept the consignment.

#### *-Fees*

Harmonized fees are set for veterinary checks related to import in the EU and transit. For other products, Member States are free to establish fees to cover the costs involved, based on the criteria set out in the regulation.

#### *-Audits*

Product specific audits will be replaced by a general audit of the third country food safety system.

#### *-Certificates*

The Commission assured us that the adopted food and feed control regulation will not lead to the requirement of additional certificates for products of non-animal origin.

**Additional Information**

Questions and Answers on the Regulation on Official Food and Feed Controls

<http://europa.eu.int/rapid/pressReleasesAction.do?reference=MEMO/04/94&format=HTML&aged=0&language=EN&guiLanguage=en>

**Background**

In the aftermath of the BSE crisis and several other food scandals, the EU published its White Paper on Food Safety setting out a legislative action plan for a pro-active new food policy. Key elements in the new approach were the establishment of a framework regulation establishing the general principles of food law, the establishment of an independent body providing scientific advice to the legislators (the European Food Safety Authority), the development of specific food and feed safety legislation including a major overhaul of the existing hygiene legislation, and the creation of a framework for harmonized food controls. The EU developed a "Farm to Fork" approach covering all sectors of the food and feed chain, with traceability as basic concept. The application of the "precautionary principle" as described in the February 2000 Commission Communication on the Precautionary Principle is also an important concept in the EU's approach.

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**Related reports from USEU Brussels:**

Report Number	Title	Date Released
E24051	Parliament approves EU Food and Feed Control Proposal	3/12/2004
E23158	EU Trade Comments to Food and Feed Proposal	8/19/2003
E23032	EU Food & feed controls	3/7/2003